LIBRARY
SUPREME COURT, U.S.

In the Supreme Court of the United States

OCTOBER TERM, 1971

ROBERT ANTHONY WHITE, PETITIONER

v.

UNITED STATES OF AMERICA

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

MEMORANDUM FOR THE UNITED STATES IN OPPOSITION

ERWIN N. GRISWOLD,
Solicitor General,
Department of Justice,
Washington, D. C. 20530.

In the Supreme Court of the United States

OCTOBER TERM, 1971

No. 71-604

ROBERT ANTHONY WHITE, PETITIONER

v.

UNITED STATES OF AMERICA

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

MEMORANDUM FOR THE UNITED STATES IN OPPOSITION

After a non-jury trial in the United States District Court for the Central District of California, petitioner was convicted of willfully refusing to submit to induction into the armed forces, in violation of 50 U.S.C. App. 462(a). He was sentenced to the custody of the Attorney General for a period of one year and one day. The court of appeals affirmed (Pet. App. A).

Petitioner registered with his local board in Pasadena, California, on March 24, 1965. On September 20, 1966, he was classified I-A, and was ordered to report for a preinduction physical examination on January 12, 1967. He failed to report at that time, but advised the board by letter that he had been prevented from complying with the order because he had received a gun shot wound in his left foot. He was thereafter reclassified I-Y; he remained in that status until April 16, 1968, when the board, on being informed that petitioner was fully acceptable for induction, again placed him in Class I-A. He was advised of his appeal rights, but no appeal was taken.

On May 28, 1968, petitioner was ordered to report for induction on June 19, 1968; he failed to report. He was notified of his "continuing duty" to report and advised that his reporting date had been rescheduled for February 5, 1969. Again, he did not report. His induction was rescheduled for June 10, 1969.

On June 2, 1969, petitioner wrote to the board and for the first time requested the Special Form for Conscientious Objectors (SSS Form 150). A form was provided to him. which he completed and returned.[1] After several postponements, petitioner was given an opportunity to meet with the board members at a "courtesy interview" on April 9, 1970. Thereafter, the board decided not to reopen petitioner's I-A classification; he was ordered to report for

---

[1] Petitioner reported to the induction station on June 10, 1969, but refused to submit to induction. On July 24, 1969, the United States Attorney deferred prosecution so that the board could consider petitioner's late claim (Pet. App. A2).

induction on September 1, 1970. He reported, but refused to submit to induction, and the present conviction followed. The court of appeals affirmed (Pet. App. A1-A5).

Petitioner contends here only that this Court should reconsider its decision in *Ehlert* v. *United States*, 402 U.S. 99, which holds that post-induction-notice conscientious objector claims are not to be considered by local boards of the Selective Service System, but are, instead, to be reviewed administratively by the military after a registrant submits to induction. The various arguments advanced by petitioner's counsel are the same that he has made in *Farrell and Roy* v. *United States*, No. 71-77, this Term, certiorari denied, October 12, 1971; *Taggart* v. *United States*, No. 70-341, this Term, certiorari denied, October 12, 1971; *Kilty* v. *United States*, No. 71-290, this Term, certiorari denied, November 9, 1971, and most recently, in *McIntyre* v. *United States*, No. 71-555, this Term. For the reasons stated in the government's responses in those cases, there is no cause for further review in the present case. And see *Collins* v. *United States*, No. 71-409, this Term, certiorari denied, December 7, 1971.

It is therefore respectfully submitted that the petition for a writ of certiorari should be denied.

ERWIN N. GRISWOLD,
Solicitor General.

DECEMBER 1971.

☆ U. S. GOVERNMENT PRINTING OFFICE: 1971 452352 378